

AUG 17 2005

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BRINKS
HOFER
GILSON
& LIONE
IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Appln. of: **Steven J. Savage et al.**Appln. No.: **10/663,717**Filed: **September 17, 2003**For: **FILTER SYSTEM FOR A DEEP FAT FRYER**Examiner: **Timothy F. Simone**Art Unit: **1761**Attorney Docket No: **12361-224**
 Mail Stop Amendment
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450
TRANSMITTAL**Attached Is/are:**

- ☒ Response to Restriction Requirement
☐ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(____).
☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			x 100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+\$360=	
					Total	\$		Total	\$

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Date

Aug 17, 2005

Respectfully submitted,

[Signature]

David W. Okey (Reg. No. 42,959)

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Our Case No. 12361/224

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Steven J. Savage et al.

Serial No. 10/663,717

Filing Date: September 17, 2003

For: FILTER SYSTEM FOR A DEEP
FAT FRYER

Examiner: Timothy F. Simone

Group Art Unit No. 1761

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement mailed on August 1, 2005, Applicants elect Group I, Claims 1-12, with traverse. The Examiner is respectfully requested to withdraw the restriction requirement and to advance all the claims to examination.

Appl. No. 10/663,717
Restriction Req. mailed August 1, 2005
Response transmitted August 17, 2005

Attorney Docket 12361/224

1. The Restriction Requirement mailed on August 1, 2005, requires Applicants to elect for examination one of Group I for Invention I, Claims 1-12, and Group II for Invention II, Claims 13-14. As stated above, Applicants have elected Group I, Claims 1-12, with traverse.

2. The restriction requirement states that the inventions are distinct, each from the other, because they are related as a process/method and an apparatus for its practice. The requirement further states that the Group II method as claimed can be practiced by another and materially different apparatus without the specifics of the Group I apparatus, i.e., take-up pipe, first switch means, pump means, valve means, inline filter means, etc.

M.P.E.P. 806.05(e) states that the burden is on the Examiner to provide reasonable examples that recite material differences. In this restriction requirement, the Office Action merely states that the method can be practiced by another and materially different apparatus, e.g., one without certain limitations as recited in Claim 1. For example, the Group II method requires a step of providing an open filter pan disposed below a drain for receiving oil to be filtered, and also requires a step of providing a pump for withdrawing filtered oil from said filter pan. The restriction requirement proposes to remove the specifics of the Group I apparatus, including a take-up pipe, a first switch means, a pump means, valve means, and inline-filter means, and so on.

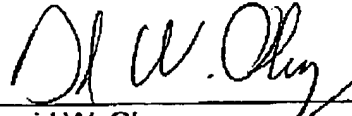
The restriction requirement, however, does not recite what the materially different apparatus would include. Additionally, many of the same limitations are recited in both Groups I and II, including a deep fat fryer, a tank with deep fat frying oil, an open filter pan, a pump and a filter. Accordingly, Applicants submit that the restriction requirement does not meet the burden of providing a reasonable example as required.

3. Because the Office Action does not provide a reasonable example of a filter system as required by M.P.E.P. 806.05(e), Applicants submit that the restriction requirement is overcome. Applicants respectfully request the Examiner to withdraw the restriction requirement and to advance all the claims to examination.

Appl. No. 10/663,717
Restriction Req. mailed August 1, 2005
Response transmitted August 17, 2005

Attorney Docket 12361/224

Respectfully submitted,



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